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12  
13 **UNITED STATES DISTRICT COURT**  
14 **DISTRICT OF NEVADA**

15 DEANA M. HAAS, an individual,  
16  
17 Plaintiff,  
18 v.

19 NAYAKON CHAIYAPHAKDIPHON, an  
20 individual, and CHARLES SCHWAB & CO.,  
21 INC., a California corporation,  
22 Defendant.

CASE NO.: 2:12-cv-01309-LDG-CWH

**DEFAULT JUDGMENT**

23 The Court having received and reviewed Plaintiff's Motion for Default Judgment and for  
24 good cause shown entered Default Judgment against Defendant Chaiyaphakdiphon on Plaintiff's  
25 First Claim for Relief (Declaratory Relief) and issues the following Order.

26 The Court orders and declares that:

27 1. The beneficiary designation form executed on October 24, 2010, copy of which is  
28 attached to this Default Judgment as *Exhibit A*, that purportedly designates Defendant  
Chaiyaphakdiphon as the sole primary beneficiary of the Individual Retirement Account of  
Cecil Lynch, Jr., deceased, initially opened on December 15, 2006 and administered by  
Charles Schwab & Co., Inc. (the "IRA") is void and/or invalid because it was obtained by  
fraud, duress, and/or undue influence.

2. The initial beneficiary designation form executed on December 13, 2006, a copy of which is attached to this Default Judgment at **Exhibit B**, that designates Plaintiff Deana Haas as the sole primary beneficiary of the IRA is valid and enforceable.

DATED this 6 day of May, 2014

  
HONORABLE LOYD D. GEORGE  
U.S. DISTRICT COURT JUDGE

Respectfully submitted by:

**CALLISTER, IMMERMANN+ ASSOCIATES, LLC**

BY: /s/Matthew Q. Callister  
**MATTHEW Q. CALLISTER, ESQ.**  
Nevada Bar #1396  
823 Las Vegas Boulevard South, Fifth Floor  
Las Vegas, Nevada 89101  
(702)385-3343  
*Attorneys for Plaintiff*

# **EXHIBIT “A”**

**charles SCHWAB**  
INSTITUTIONAL

# Beneficiary Designation Form

*New*

Page 1 of 2

Investment Advisor ("IA") Information (This portion to be completed by IA.)

IA Firm Name (please print): **BRIAN D LOWDER INC**

IA Master Account Number: **0829-4000**

Service Team: **SOCAL Team 5**

This form may be used to designate one or more beneficiaries for an IRA, 403(b)(7) account or Education Savings Account. To designate beneficiaries for a Qualified Retirement Plan (QRP), use the QRP Designation of Beneficiary(ies) form.

## 1. Account Holder Information

First Name: **Cecil** Middle: **[REDACTED]** Last: **Lynch**  
Schwab Account Number: **2205-0487** Social Security/Tax ID Number: **[REDACTED]**

## 2. Designate Your Beneficiary(ies)

- If this is an IRA (except for a Custodial IRA for a minor) and I live in a state with community property statutes and do not designate my spouse as the sole Primary Beneficiary, I represent and warrant that my spouse has consented to such designation.
- If this is a Custodial IRA for a minor, I understand that only the minor's estate can be the beneficiary until such time as the minor becomes the owner of the IRA and designates his or her own beneficiaries.
- If this is an Education Savings Account, the beneficiary must be a qualified member of the current designated beneficiary's (account holder's) family. A qualified family member is defined as the spouse of the designated beneficiary and any child, grandchild, stepchild, sibling, parent, grandparent, stepparent, niece or nephew, aunt or uncle, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law and the spouse of any such individual as well as the first cousins (but not their spouses).
- If you wish to designate more than four primary or contingent beneficiaries, attach a separate sheet of paper. Provide all the information above, including percentage of IRA for each beneficiary. (Percentages must total 100%.)
- If more than one beneficiary is designated, the percentages must total 100%.
- I understand that if I fail to indicate percentage of benefits, Schwab will divide benefits equally among the beneficiaries I designate. Note: Benefits cannot be expressed in dollar amounts.
- If you designate a trust as a beneficiary, you must also provide the date of the trust.

Primary Beneficiary(ies): I designate the following person(s) or entity(ies) below as primary beneficiary(ies) to receive payment of the value of my account upon my death.

Share %	Trust Name (if applicable)	Trust Date (mm/dd/yyyy)	Share %	Trust Name (if applicable)	Trust Date (mm/dd/yyyy)
	<b>Nayakon Chaiyaphakdiphon</b>				
	Name			Name	
	<b>[REDACTED]</b>				
	Social Security/Tax ID Number			Social Security/Tax ID Number	
	<b>friend</b>	<b>11/10/1965</b>			
	Relationship	Birthdate (mm/dd/yyyy)		Relationship	Birthdate (mm/dd/yyyy)
Share %	Trust Name (if applicable)	Trust Date (mm/dd/yyyy)	Share %	Trust Name (if applicable)	Trust Date (mm/dd/yyyy)
	Name			Name	
	Social Security/Tax ID Number			Social Security/Tax ID Number	
	Relationship	Birthdate (mm/dd/yyyy)		Relationship	Birthdate (mm/dd/yyyy)

## For Charles Schwab Use Only

Account Number: \_\_\_\_\_ Date Approved (mm/dd/yyyy): \_\_\_\_\_  
Print Name of Approver: \_\_\_\_\_ Signature: \_\_\_\_\_



**2. Designate Your Beneficiary(ies) (Continued)**

**Contingent Beneficiary(ies):** If no primary beneficiary survives me, I designate that the balance of my account be distributed to my contingent beneficiary(ies) below.

100.00

Share %	Trust Name (if applicable) <b>Deanna M. Haas</b>	Trust Date (mm/dd/yyyy)	Share %	Trust Name (if applicable)	Trust Date (mm/dd/yyyy)
	Name [Redacted]			Name	
	Social Security/Tax ID Number			Social Security/Tax ID Number	
	Niece	03/24/1968		Relationship	Birthdate (mm/dd/yyyy)
	Relationship	Birthdate (mm/dd/yyyy)			
Share %	Trust Name (if applicable)	Trust Date (mm/dd/yyyy)	Share %	Trust Name (if applicable)	Trust Date (mm/dd/yyyy)
	Name			Name	
	Social Security/Tax ID Number			Social Security/Tax ID Number	
	Relationship	Birthdate (mm/dd/yyyy)		Relationship	Birthdate (mm/dd/yyyy)

**3. Please Read and Sign**

I elect that when I die, my interest in the account designated in Section 1 will become the property of:

- The primary beneficiary, if he or she survives me; or
- If no primary beneficiary survives me, the contingent beneficiary.

If no designated beneficiary survives me, or if the custodian cannot locate the beneficiary, then the custodian will distribute the benefits to:

- My estate.

I understand that if I fail to indicate percentage of benefits, Schwab will divide benefits equally among the beneficiaries I designate.

If a primary beneficiary dies before the account holder's date of death and the account holder fails to change his/her beneficiary by submitting a new Beneficiary Designation Form, each surviving primary beneficiary will receive a share of the total benefits based on the following formula:

$$\text{New Share Percentage (\%)} = \frac{\text{Surviving Individual's Original Share Percentage (\%)}}{\text{Total Share Percentage (\%) of All Surviving Primary Beneficiaries}}$$

If a primary beneficiary dies after the account holder's date of death but before receiving his/her percentage (%) share of the account, his/her share should be transferred/distributed to his/her estate.

I understand that if any primary or contingent beneficiaries die and I wish to name a new beneficiary, or modify existing beneficiary information, I must complete a new Beneficiary Designation Form.

If a contingent beneficiary dies, surviving contingent beneficiaries will share in the benefits in the same way as described for primary beneficiaries.

I reserve the right to revoke or change this beneficiary designation. I understand that any change or revocation must be given in writing to Charles Schwab.

This designation revokes prior designations (if any) of primary or contingent beneficiaries.

I understand that if Charles Schwab & Co., Inc. ("Schwab") determines that my beneficiary designation is not clear with respect to the amount of the distribution, the date on which the distribution shall be made, or the identity of the party or parties who will receive the distribution, Schwab will have the right, in its sole discretion, to consult counsel and to institute legal proceedings to determine the proper distribution of the account, all at the expense of the account, before distributing or transferring the account.

By signing this form, I acknowledge that I have received a copy of the Beneficiary Designation Account Terms to retain for my records.

Signature: Account Holder

Print Name

Date 6/24/2010  
(mm/dd/yyyy)

# **EXHIBIT “B”**

charles SCHWAB  
INSTITUTIONAL

DOC-ENTL 150-IRA Account Application

DEC. 18

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Investment Advisor ("IA") Information (This portion to be completed by IA.)  
IA Firm Name (Please print) BRIAN D LOWDER, INC. BY #17  
IA Master Account Number 8009660 Service Team

1. Account Holder Information (For information about Schwab's privacy policy, please refer to the attached IRA Account Application Agreement.)  
As required by federal law, Schwab will use the information provided below to verify your identity.

Account Holder/Minor

CECIL L LYNCH, JR.  
First Name Middle Last  
4404 SHORTLEAF STREET LAS VEGAS NV 89119 702/731-9782  
Home Street Address (no P.O. boxes, please) City State Zip Code Home Telephone Number  
Mailing Address (if different from above; P.O. boxes may be used) City State Zip Code  
Date of Birth (mm/dd/yyyy) Country of Legal Residence  
Social Security/Tax ID Number Country(ies) of Citizenship (Must list all; if not a U.S. citizen, please complete identification information below)  
Passport U.S. Driver's License U.S. Gov't Issued ID  
Identification Type (Complete only if not a U.S. citizen) Identification Number Place of Issuance Issue Date Expiration Date  
Employer Name/Industry (if self-employed, indicate nature of business) Occupation/Position Employment Status  
Business Street Address (no P.O. boxes, please) City State Zip Code Business Telephone Number  
I am employed by, affiliated with, or am either a director or owner of one or more securities firms. Yes No If yes, list (Company Symbol, e.g., SCHW) I am a director, 10% shareholder or policy-making officer of one or more publicly traded companies. Yes No If yes, list (Company Symbol, e.g., SCHW)

Custodian Information Please complete if the account is for a minor.

First Name Middle Last Are you known by another name? (Specify)  
Home Street Address (no P.O. boxes, please) City State Zip Code Home Telephone Number  
Mailing Address (if different from above; P.O. boxes may be used) City State Zip Code  
Date of Birth (mm/dd/yyyy) Country of Legal Residence  
Social Security/Tax ID Number Country(ies) of Citizenship (Must list all; if not a U.S. citizen, please complete identification information below)  
Passport U.S. Driver's License U.S. Gov't Issued ID  
Identification Type (Complete only if not a U.S. citizen) Identification Number Place of Issuance Issue Date Expiration Date  
Employer Name/Industry (if self-employed, indicate nature of business) Occupation/Position Employment Status  
Business Street Address (no P.O. boxes, please) City State Zip Code Business Telephone Number  
I am employed by, affiliated with, or am either a director or owner of one or more securities firms. Yes No If yes, list (Company Symbol, e.g., SCHW) I am a director, 10% shareholder or policy-making officer of one or more publicly traded companies. Yes No If yes, list (Company Symbol, e.g., SCHW)

\*Attach a written consent from your employer if employed by a securities firm.

For Charles Schwab Use Only  
Account Number 2205-0487 Date Approved (mm/dd/yyyy)  
Print Name of Approver Signature



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**2. Select IRA Type (Select only ONE type of account)**

**Traditional IRA. Select only one.**

- ☐ Contributory IRA  
☐ Rollover IRA

☒ Rollover from an employer retirement plan

**LAS VEGAS RESORTS 401(K) PLAN**

Name of Employer Sponsoring the Plan

Approximate Total Value of Distribution \$ 280,000<sup>02</sup>

Expected Distribution Date (mm/dd/yyyy), if known 12/15/06

By signing this application, I elect that my IRA assets identified above be considered a rollover. This election is required by the IRS to qualify my contribution as a rollover contribution.

**Roth IRA. Select only one.**

- ☐ Roth Contributory  
☐ Roth Conversion

Current Schwab Traditional IRA to convert \_\_\_\_\_

The entire balance of your IRA will be converted. If you want to convert only a portion of your IRA, attach a separate sheet of paper listing the name of the asset and amount of shares.

If you are converting a Traditional IRA to a Roth IRA, the tax withholding election you make in this section will only apply to this conversion request.

**Important Tax Withholding Election Notice:** Distributions from your IRA are generally subject to federal (and possibly state) income tax. Even if you elect in writing not to have federal and/or state income tax withheld, you are liable for payment of federal and state income taxes, if applicable, on the taxable portion of your distribution. You may also be subject to tax penalties under the estimated tax payment rules if your withholding and payment of estimated tax, if any, are not adequate.

Withholding income taxes may (1) make you ineligible for the conversion because amounts withheld from your Traditional IRA or Rollover IRA are used when determining conversion eligibility and (2) subject you to IRS penalties if you are under age 59½ because the amount withheld is considered a distribution. Schwab recommends that you contact your tax advisor regarding your tax withholding election.

Please select a withholding instruction for the taxable distribution that results from the conversion. If you do not make an election, Schwab is required to withhold 10% for payment of federal (and possibly state) income tax from your gross distribution.

- ☐ Do not withhold tax  
☐ Withhold tax: Federal income tax: ☐ 10% ☐ 15% ☐ 20% ☐ Other \_\_\_\_\_ % (amount must be at least 10% and a whole number), if you reside in AR, CA, DE, GA, IA, KS, MA, ME, NC, NE, OK, OR or VT and federal income tax withholding is applied, Schwab will also apply state income tax withholding based upon your state's minimum tax rate.

**Inherited IRA/Spousal Rollover IRA. Select only one.**

- ☐ Inherited IRA ☐ Spousal Rollover IRA

Decedent's Information:

First Name \_\_\_\_\_ Middle \_\_\_\_\_ Last \_\_\_\_\_ Social Security/Tax ID Number \_\_\_\_\_

Schwab IRA Account Number \_\_\_\_\_ Date of Death \_\_\_\_\_

**Custodial IRA. Select only one. Please complete Section 1 with minor and custodian information.**

- ☐ Custodial Contributory IRA  
☐ Custodial Roth Contributory IRA  
☐ Education Savings Account

**SIMPLE IRA. Please note: This form can only be used to add participants to an existing plan.**

- ☐ SIMPLE IRA

Name of Business \_\_\_\_\_

Employer's Group Plan Number \_\_\_\_\_

**Simplified Employee Pension (SEP) IRA. Select only one. (Application must include Adoption Agreement and Employer's Agreement.)**

- ☐ SEP-IRA ☐ SARSEP-IRA

Name of Business \_\_\_\_\_



**3. Choose Your Cash Feature**

Please select below one eligible Cash Feature that may allow you to earn income on the free credit balances in your brokerage account (each, a "Cash Feature"). Eligibility for each Cash Feature is indicated below. For additional information on the eligibility rules for, and important disclosures about, the various alternatives to earn income on your cash, please see Schwab's cash feature disclosure statement. If you do not select a Cash Feature, select more than one Cash Feature, or select a Cash Feature for which you are not eligible, you instruct Schwab to designate the Bank Sweep feature as the Cash Feature for your account. Schwab may make this designation without providing any advance notice to you.

Select only one of the following:

Available to:

<input type="radio"/> Bank Sweep feature <sup>1</sup>	Individuals Only
<input type="radio"/> Schwab Government Money Fund <sup>TM</sup> (SWGXX)	Clients with Household Balance <sup>1</sup> >\$100,000
<input type="radio"/> Schwab U.S. Treasury Money Fund <sup>TM</sup> (SWLXX)	Clients with Household Balance >\$100,000
<input checked="" type="radio"/> Schwab Advisor Cash Reserves <sup>SM</sup> -Sweep Shares (SWQXX)	Clients with Household Balance >\$500,000
<input type="radio"/> Schwab Advisor Cash Reserves <sup>SM</sup> -Premier Sweep Shares (SWZXX)	Clients with Household Balance >\$1,000,000

The Cash Features listed above may not be available to non-U.S. residents. Please contact Schwab for your cash feature eligibility if you reside outside of the United States.

<sup>1</sup>The Bank Sweep feature automatically makes deposits to and withdrawals from deposit accounts held at Charles Schwab Bank, N.A., an FDIC-insured depository institution affiliated with Schwab. Please see Schwab's cash feature disclosure statement for more information about FDIC insurance. We recommend that you assume that coverage of deposit accounts established under the Bank Sweep feature will be limited to FDIC insurance and that you not expect coverage from SIPC.

<sup>2</sup>Your Household Balance includes all of your accounts at Schwab that have been linked in accordance with Schwab's householding guidelines.

If you select a Sweep Money Fund, your selection is considered a request for a prospectus. It is an indication of interest only, and you are not obligated to buy any shares. Please read the prospectus carefully. Money Funds ARE NOT FDIC-INSURED, MAY LOSE VALUE, AND ARE NOT BANK-GUARANTEED.

**4. Electronic Delivery (eDelivery) Enrollment**

By enrolling in eDelivery, you elect to receive Schwab eConfirms<sup>SM</sup> (trade confirmations sent to your email address) and eStatements (account statements made available on [www.schwabonline.com](http://www.schwabonline.com)) for your account, to which you will be able to link from emails sent to you.

By providing your email address, you will receive an email from Schwab in which you must confirm your consent to eConfirms and eStatements by reading the terms and conditions and clicking on the "Consent" button. A login ID and password for [schwabonline.com](http://schwabonline.com) will need to be activated to access your eStatements. You may enroll in eConfirms and eStatements at any time.

Enrolling in both eConfirms and eStatements may also qualify you for lower online equity trades. Please consult with your Investment Advisor and/or the Charles Schwab Institutional<sup>SM</sup> Pricing Guide for more details.

Email address: \_\_\_\_\_

Please notify us if there is any change to your email address. If we are unable to deliver to this email address, we will send paper trade confirmations and statement notifications to you through the U.S. mail.

If you do not want eConfirms or eStatements at this time, do not provide your email address above.

**5. Authorizations**

Please initial all areas that apply to this account. (An X is not sufficient.) Any of these authorizations may be revoked by providing notice to Schwab.

X ES  
Account Holder/Custodian

Trading and Disbursement Authorization. I authorize Schwab (1) to execute trades in my account at the direction of IA as provided under the Trading Authorization heading in the IRA Account Application Agreement; (2) to disburse assets for investment purposes or to me personally, as instructed by IA; (3) to remit checks, wire funds and otherwise to make disbursements of funds held in the account (4) to banks, broker-dealers, investment companies or other financial institutions for credit to an account of identical registration, or (5) to me at my address of record. (Note: I acknowledge that any disbursement made to me personally may constitute a taxable distribution.)

X ES  
Account Holder/Custodian

Trading Authorization. I authorize Schwab to execute trades in my account at the direction of IA as provided under the Trading Authorization heading in the IRA Account Application Agreement.

\_\_\_\_\_  
Account Holder/Custodian

Fee Payment Authorization. I authorize Schwab to pay investment advisory and related fees to IA from my account or another account registered in my name over which I have granted IA fee payment authorization in the amount of IA's instructions.

For Charles Schwab Use Only

Account Number \_\_\_\_\_

WB

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CHARLES SCHWAB

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**6. Issuer Communications and Related Actions**

If you have granted your IA trading authority over your account, and your IA exercises investment discretion for you pursuant to an advisory contract, you can appoint your IA to be sent certain issuer and issuer-related communications (proxies, tender offers, proposed mergers, rights offerings, exchange offers and warrants, among other things) that may require a voting decision or other action regarding investments held in your account.

If you appoint your IA below, your IA will, regarding only those voting decisions or other action communications sent to your IA: (i) be requested to vote proxy ballots; (ii) be requested to provide instructions regarding corporate reorganizations and other corporate actions; and (iii) be sent certain prospectuses and annual reports and other communications. In these cases, you will be authorizing your IA to make all voting decisions and take all actions on your behalf. You will not be sent informational copies of these communications.

Even if you appoint your IA below, you may still be sent certain other issuer and issuer-related communications regarding investments held in your account. You agree that you will be responsible for providing Schwab any applicable instructions or directions on those items.

Please select only one:

☐ Yes, I appoint my IA and I will fulfill my responsibilities, as described above. I instruct Schwab not to disclose my name, address and securities positions to any issuer of securities held in my account.

☒ No, I do not appoint my IA as described above. I wish to be sent all issuer and issuer-related communications, make all voting decisions and take all actions described above. I understand that any issuer of securities held in my account may request that Schwab disclose to it my name, address and securities positions in that issuer.

If you selected "No" above, please select one:

My IA ☒ should / ☐ should not be sent informational copies of any issuer or issuer-related communications.

If you do not select either "Yes" or "No" above, Schwab will deem you to have indicated "No," but informational copies of issuer and issuer-related communications may be sent to your IA.

**7. Designate Your Beneficiary(ies)\***

**Primary Beneficiary(ies):** I designate the person(s) below as primary beneficiary(ies) to receive payment of the value of my IRA upon my death.

Share % <sup>1</sup>	Trust Name (if applicable) <sup>2</sup>	Trust Date (mm/dd/yyyy)
	DEANA M. HAAS	
	Name	
	Social Security/Tax ID Number	
	NIECE	
	Relationship	Birthdate (mm/dd/yyyy)
Share % <sup>1</sup>	Trust Name (if applicable) <sup>2</sup>	Trust Date (mm/dd/yyyy)
	Name	
	Social Security/Tax ID Number	
	Relationship	Birthdate (mm/dd/yyyy)
Share % <sup>1</sup>	Trust Name (if applicable) <sup>2</sup>	Trust Date (mm/dd/yyyy)
	Name	
	Social Security/Tax ID Number	
	Relationship	Birthdate (mm/dd/yyyy)
Share % <sup>1</sup>	Trust Name (if applicable) <sup>2</sup>	Trust Date (mm/dd/yyyy)
	Name	
	Social Security/Tax ID Number	
	Relationship	Birthdate (mm/dd/yyyy)

**Contingent Beneficiary(ies):** If no primary beneficiary survives me, I designate that the balance of my IRA be distributed to my contingent beneficiary(ies) below.

Share % <sup>1</sup>	Trust Name (if applicable) <sup>2</sup>	Trust Date (mm/dd/yyyy)
	Name	
	Social Security/Tax ID Number	
	Relationship	Birthdate (mm/dd/yyyy)
Share % <sup>1</sup>	Trust Name (if applicable) <sup>2</sup>	Trust Date (mm/dd/yyyy)
	Name	
	Social Security/Tax ID Number	
	Relationship	Birthdate (mm/dd/yyyy)
Share % <sup>1</sup>	Trust Name (if applicable) <sup>2</sup>	Trust Date (mm/dd/yyyy)
	Name	
	Social Security/Tax ID Number	
	Relationship	Birthdate (mm/dd/yyyy)
Share % <sup>1</sup>	Trust Name (if applicable) <sup>2</sup>	Trust Date (mm/dd/yyyy)
	Name	
	Social Security/Tax ID Number	
	Relationship	Birthdate (mm/dd/yyyy)

\*If this is an Education Savings Account, the beneficiary must be a qualified member of the current designated beneficiary's (account holder's) family. A qualified family member is defined as the spouse of the designated beneficiary and any child, grandchild, stepchild, sibling, parent, grandparent, stepparent, niece or nephew, aunt or uncle, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law and the spouse of any such individual as well as the first cousins (but not their spouses).

If this is a Custodial IRA for a minor, I understand that only the minor's estate can be the beneficiary until such time as the minor becomes the owner of the IRA and designates his or her own beneficiaries.

<sup>1</sup> If you wish to designate more than two primary or contingent beneficiaries, attach a separate sheet of paper. Provide all the information above and percentage of IRA for each beneficiary. (Percentages must total 100%.)

<sup>2</sup> If more than one beneficiary is designated, the percentages must total 100%.

<sup>3</sup> If you designate a trust as a beneficiary, you must also provide the date of the trust.

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**7. Designate Your Beneficiary(ies)** (Continued)

I understand that if no designated beneficiary survives me or if the custodian cannot locate the beneficiary, the custodian will distribute the benefits to my estate. If I have chosen more than one primary beneficiary, and one or more (but not all) primary beneficiaries survive me, each surviving beneficiary will receive a share of the benefits determined by multiplying the total benefits by a fraction in which the numerator is the percentage to be distributed to the particular primary beneficiary as shown above and the denominator is the total of the percentages for all surviving beneficiaries as shown above. If no primary beneficiary survives me, the surviving contingent beneficiary(ies) will share in the benefits in the same way as described above. I understand that if I fail to indicate share percentages, Schwab will divide benefits equally among all beneficiary(ies) I designate.

I understand that if Schwab determines that my beneficiary designation is not clear with respect to the amount of the distribution, the date on which the distribution shall be made, or the identity of the party or parties who will receive the distribution, Schwab shall have the right, in its sole discretion, to consult counsel and to institute legal proceedings to determine the proper distribution of the account, all at the expense of the account, before distributing or transferring the account.

I reserve the right to revoke or change this beneficiary designation, and understand that any change or revocation must be given in writing to Schwab. This designation revokes any prior designation of primary or contingent beneficiary(ies) I may have made.

**8. Authorization to Open Account**

By signing this Application, you acknowledge that you have received and read a copy of the attached Application Agreement, which contains a predispute arbitration provision. You acknowledge that your signature signifies and constitutes your agreement that this account and your relationship with Schwab will be governed by the Application Agreement and all incorporated agreements and

disclosures, including, but not limited to, the Schwab IRA Account Agreement and the Charles Schwab Institutional Pricing Guide, each as amended from time to time (the "Agreement and Disclosures"). You understand there are fees associated with establishing, maintaining and engaging in transactions.

For purposes of this Account Application and the attached Application Agreement, the terms "you," "your" and "Account Holder" refer to each person who signs this Account Application. The terms "we," "us," "our" and "Schwab" refer to Charles Schwab & Co., Inc.

I certify under penalty of perjury that (1) the number shown on this Application is my correct taxpayer number; (2) I am not subject to back-up withholding because (a) I am exempt from back-up withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to back-up withholding as a result of a failure to report all interest and dividends, or (c) the IRS has notified me that I am no longer subject to back-up withholding; and (3) I am a U.S. person (including a U.S. resident alien). (I understand that if I have been notified by the IRS that I am subject to back-up withholding as a result of dividend or interest underreporting and I have not received a notice from the IRS advising me that back-up withholding is terminated, I must strike or cross out the information contained in Item 2 above.) The IRS does not require my consent to any provision of this document other than the certification required to avoid back-up withholding.

The Agreement with Schwab includes a predispute arbitration clause. I acknowledge receipt of the predispute arbitration clause contained in the Required Arbitration Disclosures and Arbitration Agreement sections, pages 1 and 2, of the IRA Account Application Agreement.

  
Signature Account Holder/Custodian

CECIL LYNCH, JR.  
Print Name

Date 12/13/06  
(month/day/year)

For Charles Schwab Use Only

Account Number

